

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7511

In Re: ANTHONY FEURTADO,

Petitioner.

On Petition for Writ of Mandamus.
(CA-99-2582-3-17)

Submitted: February 20, 2001

Decided: March 13, 2001

Before WILKINS, NIEMEYER, and WILLIAMS, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Anthony Feurtado, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Anthony Feurtado, a South Carolina prisoner, filed a petition for a writ of mandamus. He seeks to have this court direct the district court judge to recuse himself. Feurtado's initial motion to recuse was denied. He then filed a Fed. R. Civ. P. 60(b) motion for relief from the judgment denying the motion to recuse, which also was denied. In addition, he filed motions to reconsider the denial of the motion to recuse and to reconsider the denial of the Rule 60(b) motion, both of which were denied. All four rulings were recently affirmed on appeal. Feurtado v. McNair, No. 00-7253, 2001 WL 125289 (4th Cir. Feb. 13, 2001) (unpublished).

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re: First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). A district judge's refusal to recuse himself is reviewed for abuse of discretion. See United States v. DeTemple, 162 F.3d 279, 283 (4th Cir. 1998), cert. denied, 526 U.S. 1137 (1999). Mandamus applies to ministerial, but not discretionary, functions of federal officials. See 28 U.S.C.A. § 1361 (West 2000). Further, mandamus is a drastic remedy and should only be used in extraordinary situations. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re: Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus relief is only available when there are no other means by which the relief sought could be granted. See In re: Beard, 811 F.2d at 826. Because the motion to

recuse and subsequent motions for relief from judgment and reconsideration have been denied in the district court and the denial has been affirmed on appeal, Feurtado has not shown a clear right to the relief sought. Therefore, we deny his petition for mandamus relief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED